

## **TITLE 14. OFFICE OF SPILL PREVENTION AND RESPONSE**

### **NOTICE OF PROPOSED RULEMAKING**

Notice is hereby given that the Office of Spill Prevention and Response (OSPR) within the Department of Fish and Game proposed to amend Section 790, and Sections 840 through 845.2 in Subdivision 4, Title 14 of the California Code of Regulations (CCR) governing Definitions and Abbreviations, and Oil Transfer and Vessel Operations.

### **PUBLIC HEARINGS**

Public hearings have been scheduled at which any interested party may present statements, orally or in writing, about this proposed regulatory action. The hearings will commence at 10:00 a.m. and continue until all testimony is completed. The hearings will be held as follows:

#### **NORTHERN CALIFORNIA**

Tuesday, September 18

10:00 a.m.

Bay Model Visitor's Center

2100 Bridgeway

Sausalito, California

#### **SOUTHERN CALIFORNIA**

Thursday, September 20

10:00 a.m.

Port of Long Beach Administration Building

925 Harbor Plaza, 6<sup>th</sup> Floor Board Room

Long Beach, California

Pre-hearing registration will be conducted just prior to each hearing from 9:30 a.m. until 10:00 a.m. Those registered will be heard in the order of their registration. Anyone else wishing to speak at the hearing will be afforded such opportunity after those registered have been heard. The time allowed for each person to present oral testimony may be limited if a substantial number of people wish to speak.

Individuals presenting oral testimony are requested, but not required, to submit a written copy of their statements. The hearing will be adjourned immediately following the completion of the oral testimony.

### **SUBMISSION OF WRITTEN COMMENTS**

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to OSPR. All written comments must be received by

OSPR at this office no later than 5:00 p.m. on September 20, 2001, in order to be considered. Written comments may be submitted by mail, fax, or e-mail, as follows:

Department of Fish and Game  
Office of Spill Prevention and Response  
P.O. Box 944209  
Sacramento, California 94244-2090  
Attention: Joy D. Lavin-Jones  
Fax: (916) 324-5662  
E-mail: [jlavinj@ospr.dfg.ca.gov](mailto:jlavinj@ospr.dfg.ca.gov)

### PERMANENT ADOPTION OF REGULATIONS

OSPR may thereafter adopt the proposal substantially as described in this Notice, or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposals - with changes clearly indicated - will be available for 15 days prior to its adoption from the person designated in this Notice as contact person. The text will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

### AUTHORITY AND REFERENCE

Government Code Section 8670.17 grants the Administrator the authority to develop and adopt any rules, regulations and guidelines for oil transfers and vessel operation requirements. Accordingly, these proposed regulations implement, interpret and make specific Government Code Sections 8670.17, 8670.18, and 8670.28.

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Lempert-Keene-Seastrand Oil Spill Prevention and Response Act (the Act) (see Government Code Sections 8574.1 through 8670.72, and Public Resources Code Sections 8750 through 8760) created a new and comprehensive state oil spill program for marine waters. The new law greatly expanded the authority, responsibilities and duties of the Department of Fish and Game under the direction of the Administrator for oil spill response. Government Code Section 8670.6 provides authority for the establishment of OSPR which contains staff to assist the Administrator in performing the duties specified in the Act.

Government Code Section 8670.17 of the Act requires that Administrator to adopt rules, regulations and guidelines governing marine terminals and the equipment, personnel and operations necessary during the transfer of oil between vessels and the terminals.

Pursuant to the authority in the Act, the OSPR currently has regulations (Title 14, CCR, Sections 840 through 845.2). These regulations outline the following: 1) the procedures and preventative measures necessary prior to and during oil transfer operations; 2) the provisions for compliance inspections conducted by OSPR's Administrator or designee; and 3) the definitions of terms associated with transfer operations.

This proposal would change the regulations in the following ways:

- Clarify the applicability of the oil transfer operation requirements;

- Add/amend the definitions of terms used throughout the subchapter;

- Use the generic terms “transfer operation”, “transfer unit”, and “receiving unit” instead of the more specific “bunkering”, “lightering”, “service vessel”, “vessel to be lightered”, etc., as applicable. The generic terms more appropriately (and more clearly) describes the operation and “unit” being regulated by this subchapter;

- Add additional provisions regarding communications during oil transfer operations;

- Add additional provisions regarding the “person in charge” of an oil transfer operation;

- Clarifies existing requirements, and adds additional requirements prior and during an oil transfer operation;

- Consolidation of separate “bunkering” and “lightering” requirements into generic “oil transfer operation” requirements;

- Add separate requirements for small marine fueling facility oil transfer operations;

- Technical/grammatical amendments, as appropriate.

### SMALL BUSINESS IMPACT STATEMENT

OSPR has determined that the proposed regulations may affect small businesses.

### COMPLIANCE WITH GOVERNMENT CODE SECTIONS 8574.10 AND 8670.54

In accordance with Government Code Section 8574.10, these regulations have been submitted to the Review Subcommittee of the State Interagency Oil Spill Committee for review and comment; and in accordance with Government Code Section 8670.54, these regulations have been submitted to the Oil Spill Technical Advisory Committee for review and comment.

## DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: NONE.

Costs or savings to any state agency: None

Costs or savings to local agencies or school districts which must be reimbursed in accordance with Part 7 (commencing with Section 17500) of Division 4 of the Government Code: NONE.

Other non-discretionary costs or savings imposed upon local agencies: NONE.

Costs or savings in federal funding to the state: NONE.

Cost impacts on representative private persons or businesses:

These amendments codify current practices and will not result in significant additional costs to private persons or directly affected businesses. OSPR is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant effect on housing costs: NONE.

## BUSINESS IMPACTS

The OSPR has made an initial determination that the proposed amendments will not have a significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states.

## ASSESSMENT OF JOB/BUSINESS CREATION OR ELIMINATION

The OSPR has determined that this regulatory proposal will not have a significant impact on the creation or elimination of jobs in the State of California, and will not result in the elimination of existing businesses nor create or expand businesses in the State of California.

## CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), OSPR must determine that no reasonable alternative that has been considered or that has otherwise been identified and brought to the attention of OSPR would be more effective in carrying out the purpose for which this action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AVAILABILITY OF DOCUMENTS  
AND OSPR CONTACT PERSON

OSPR has prepared a initial statement of reasons for the proposed regulatory action and has available all the information upon which the proposal is based. Copies of the exact language of the proposed regulations, statement of reasons, forms, the rulemaking file, the final statement of reasons (when available) and other information, if any, may be obtained upon request from the:

Department of Fish and Game  
Office of Spill Prevention and Response  
P.O. Box 944209  
Sacramento, California 94244-2090

In addition, the Notice, the exact language of the proposed regulations, and the Initial Statement of Reasons may be found on the World Wide Web at the following address:

***<http://www.dfg.ca.gov/Ospr/regulation/regulation.html>***

Questions regarding the proposed regulations, requests for documents, or any questions concerning the substance of this regulatory action may be directed to Joy Lavin-Jones ((916) 327-0910), or Jack Geck ((916) 323-4664), at the above address.